

NOTE: This order is nonprecedential.

United States Court of Appeals
for the Federal Circuit

BRIGHT DATA LTD.,
Plaintiff-Cross-Appellant

v.

BI SCIENCE (2009) LTD.,
Defendant-Appellant

BI SCIENCE INC.,
Defendant

2020-2118, -2181, 2021-1664, -1667

Appeals from the United States District Court for the Eastern District of Texas in No. 2:18-cv-00483-JRG, Chief Judge J. Rodney Gilstrap.

ON MOTION

PER CURIAM.

ORDER

BI Science (2009) Ltd. submits a motion to stay enforcement of the district court's February 1, 2021 final judgment pending appeal.

Requests for a stay pending appeal are governed by Rule 8(a)(1) of the Federal Rules of Appellate Procedure, which provides that an applicant for a stay must ordinarily wait until the district court has acted on its motion. *See* Fed. R. App. P. 8(a)(1) (providing that an applicant for a stay “must ordinarily move first in the district court”); *id.* at 8(a)(2)(A) (requiring movant to “show that moving first in the district court would be impracticable; or [that] the district court denied the motion or failed to afford the relief requested”). BI Science’s motion for a stay is still pending before the district court, and the parties have recently each submitted proposed terms to the court for securing Bright Data Ltd.’s rights under the judgment if the court stays enforcement of the judgment during this appeal.

The district court is reviewing the parties’ proposals and is in a better position than we are to evaluate those proposals in the first instance. Accordingly, we deem it appropriate to hold in abeyance BI Science’s motion for a stay so that the district court can have an opportunity to consider the matter, including addressing the adequacy of BI Science’s proposed security.

BI Science has represented that because of the imminence of an enforcement action by an Israeli court, BI’s business “will cease to exist” if execution of the judgment is not stayed before August 16, 2021. Mot. for Stay at 2. In light of that representation, we will reconsider that determination if by then the district court has not issued a decision on the stay application pending before it. We expect, however, that the district court will act on the application by that time.

Accordingly,

IT IS ORDERED THAT:

The motion for a stay pending appeal is held in abeyance. BI Science should promptly inform this court when the district court acts on the motion for a stay.

BRIGHT DATA LTD. v. BI SCIENCE (2009) LTD.

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FOR THE COURT

August 06, 2021
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

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cc: United States District Court for the Eastern District of
Texas, Marshall Division